

Use of Medication Aides in Nursing Homes - HB 377

EXHIBIT 5
DATE 2/17/2011
HB 377

MEDICATION AIDES are used in about 30 states and are specially trained individuals who are allowed to administer medications in nursing homes and other settings specified by the individual states.

In Montana, medication aides are allowed to administer medications in assisted living facilities.

THIS LEGISLATION authorizes the use of medication aides in nursing homes and establishes the qualifications, training, testing, scope of practice, limitations and supervision required. These individuals will be licensed by the Board of Nursing.

KEY PROVISIONS INCLUDE:

- must be a certified nursing assistant (CNA) with at least 2 years experience
- must successfully complete 100 hours of education related to basic pharmacology and principles of safe medication administration and pass a board-approved examination
- must practice under the supervision of a licensed nurse

RESTRICTIONS INCLUDE:

- may not administer "as needed" medications
- may not administer parenteral or subcutaneous medications except for prelabeled, predrawn insulin; and may not administer medications through nasogastric routes or by gastrostomy or jejunostomy tubes
- may not calculate dosages or take verbal orders related to changes in medications and dosages

HJ 17 passed by the 2009 legislature requested DPHHS and the Department of Commerce to conduct a study to examine the use of medication aides in nursing homes and to develop a report for the 2011 legislature that would discuss all provisions necessary for the safe and effective use of medication aides in nursing homes. This legislation embodies the recommendation of the study group.

Our nursing homes are experiencing a shortage of licensed nursing staff, particularly in our most rural communities. Facilities are forced to use agencies who supply traveling nurses to staff uncovered shifts. This is not only expensive but affects the quality of care because residents are being cared for by nurses who are not familiar with them. The shortage will only worsen as the baby boomers continue to age and seek health care services.

We believe the use of medication aides in nursing homes will be beneficial in Montana by taking pressure off licensed nurses to allow more time for assessment and other complex nursing functions, by having medication aides who know the residents administer medications instead of traveling nurses who are not familiar with residents, and by improving retention and recruitment of CNA's through a career ladder approach.

WE URGE YOU TO SUPPORT THIS LEGISLATION.

ROSE M. HUGHES

(406) 443-2876 ■ RHUGHES@RMSMANAGEMENT.COM

GARY L. SPAETH

(406) 439-8898 ■ GLSPAETH@AOL.COM



House Joint Resolution 17

Utilizing medication aides in long term care
Nursing Homes

June 2010



Governor Brian Schweitzer

Montana
Department of Labor and Industry
Business Standards Division

Table of Contents

| | |
|--|-------------|
| House Joint Resolution 17 | 3-5 |
| Report to the 62nd Session of the Montana Legislature | 6-12 |
| Introduction | 6 |
| Workgroup Formation | 6-7 |
| Meeting Process | 7 |
| Background Discussion | 7 |
| Study Process, Concerns and Findings | 8-9 |
| Resolution Points Addressed | 9-11 |
| Conclusions and Recommendations | 11 |
| Acknowledgements | 12 |
| Attachments: | |
| A. DPHHS/DLI 50 State Review | 13-20 |
| B. DPHHS/DLI – Six State Study of Medication Aides | 21-22 |
| C. Montana Recommendations Document | 23 |
| D. Montana Recommendations For Curriculum | 24-31 |
| E. American Nurses Association – Talking Points | 32 |
| F. State of Arizona – Medication Technician Pilot Report | 33 |
| G. National Council of State Boards of Nursing – Effects of Medication Aides on Job Losses | 34 |
| H. National Council of State Boards of Nursing and the American Nurses Association – Joint Statement on Delegation | 35 |
| I. National Council of State boards of Nursing – Model Curriculum for Medication Aides | 36 |
| J. Montana Health Care Association Medication Aides in Long-Term Care Survey Results | 37 |
| K. University of North Dakota School of Medicine and Health Sciences – Utilization of Medication Assistants in North Dakota | 38 |
| L. Minutes from Workgroup Meetings | 39-58 |

HOUSE JOINT RESOLUTION NO. 17
INTRODUCED BY FRENCH, WINDY BOY, MURPHY, R. BROWN, DE. BARRETT,
BRENDEN, LEWIS, JUNEAU, GILLAN, COHENOUR, MALEK, HAMILTON, STAHL,
POMNICHOWSKI, BECKER, SANDS, ARNTZEN, WARBURTON, MCGILLVRAY,
MENDENHALL, HUNTER, GLASER, BOLAND, P. NOONAN, TAYLOR

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA REQUESTING THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES TO EXAMINE THE USE OF MEDICATION AIDES
IN NURSING HOMES AND TO PROVIDE A REPORT TO THE 62ND LEGISLATURE.

WHEREAS, nursing homes in Montana are experiencing a shortage of licensed nursing staff, particularly in the state's most rural communities; and

WHEREAS, the shortage is likely to only worsen as the baby boom generation continues to age and to seek health care services; and

WHEREAS, facilities are turning to agencies that supply traveling nurses to staff uncovered shifts in a practice that is not only expensive but also affects the delivery of care because the nurses are not familiar with the residents for whom they are caring; and

WHEREAS, to ensure availability of staff to provide care, there is a need to revise the service delivery in nursing homes to use resources that are available in Montana; and

WHEREAS, many states have developed a program of education, training, and certification to allow unlicensed assistive personnel, including certified nursing assistants, to become medication aides who are able to administer medications in nursing homes; and

WHEREAS, the establishment of this level of health care worker may help relieve the nursing shortage and improve the quality of care for nursing home residents by taking pressure off licensed nurses and providing them with more time for assessment and other complex nursing functions, by having medication aides who know the residents administer medications instead of traveling nurses who are not familiar with the residents, and by improving retention and recruitment of certified nursing assistants through a career ladder approach; and

WHEREAS, establishing a nursing home medication aide program in Montana is a complex situation that requires study to obtain information from and cooperation among multiple agencies and organizations; and

WHEREAS, a study of this nature is best accomplished with the assistance of parties that will be involved in regulating nursing homes, nursing services, and medication aides and with the assistance of service providers, professionals, consumers, and advocacy groups who hold vital information.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Public Health and Human Services work in cooperation with the Department of Labor and Industry, the Board of Nursing, and other stakeholders to examine the use of medication aides in nursing homes and to develop a report for the 2011 Legislature that would discuss all provisions necessary for the safe and effective use of medication aides in nursing homes.

BE IT FURTHER RESOLVED, that the study should include but is not limited to:

(1) identifying other states where the use of medication aides is allowed in nursing homes in order to obtain and review information from those states about:

(a) the qualifications of medication aides, including the level and type of education and training required;

(b) the level of supervision by licensed nurses that may be required for medication aides;

(c) the restrictions on the types of medications or routes of medication administration for medication aides;

- (d) the liability and licensure issues related to supervision by licensed nurses;
- (e) any study, evaluation, or analysis completed by other states related to the use of medication aides;
- (f) the problems encountered and successes achieved in the use of medication aides;
- (g) the structure for the regulation and licensure or certification of medication aides;
- and
- (h) other information considered pertinent to the study; and

(2) obtaining and reviewing information from appropriate state or national organizations related to the use of medication aides, including but not limited to the National Council of State Boards of Nursing and the American Society of Consultant Pharmacists.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services in cooperation with the Department of Labor and Industry and the Board of Nursing identify and include in the study and in the development of any report the affected parties and stakeholders, including individuals or associations representing nursing homes, nurses, and medication aides, as well as other service providers and professionals, consumers, and advocacy groups.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services report at least quarterly to the Children, Families, Health, and Human Services Interim Committee on the status of the study and that the Department prepare a final report, including any findings, conclusions, comments, or recommendations for the 62nd Legislature.

- END -

Use of Medication Aides in Long-Term Care Setting

A Final Report on HJ 17

Report to the 62nd Montana State Legislature

Introduction:

Report Note: *HJ 17 references the term, “Nursing Home” which is not defined in Montana state statute but skilled nursing care and intermediate nursing care are defined in MCA 50-5-101(32) and (54) respectively. The term “nursing home” when used in this report refers to a “...facility that provides skilled or intermediate nursing care for 2 or more individuals...”*

The question whether Medication Aides should be utilized in nursing homes has been debated for several years. House Joint Resolution 17 assigns the Department of Public Health and Human Services (DPHHS), in conjunction with the Department of Labor & Industry (DLI), the Board of Nursing, and other stakeholders, to study the issue and present the results in a report to the Children Families, Health and Human Services Interim Committee.

Workgroup Formation

In August 2009, Director Anna Whiting Sorrell, Department of Public Health and Human Services (DPHHS) and Commissioner Keith Kelly, Department of Labor and Industry (DLI) sent a letter to various individuals and groups who were considered an interested party to this House Joint Resolution. Director Whiting Sorrell and Commissioner Kelly asked those interested in participating in the workgroup to respond in writing expressing their interest and willingness to participate. Of the responses, a group of 8 was chosen including representatives from the Montana Nurses Association, the Montana Hospital Association, the Montana Health Care Association, the Montana Board of Nursing, representatives from three long term care facilities and a legislative representative. The committee included the following:

- Montana House of Representatives – Ms. Julie French
- Montana Health Care Association – Ms. Rose Hughes

- Montana Hospital Association – Ms. Casey Blumenthal, MHSA, RN, CAE
- Montana Board of Nursing – Ms. Kathy Hayden, LPN, president
- Montana Nurses Association – Mr. Robert Allen
- St. John’s Lutheran Ministries – Ms. Libby Markus, RN
- Valley View Home – Glasgow – Ms. Lori Collins, RN
- Madison Valley Manor – Ms. Judy Melin, RN, LNHA

Administrative assistance was provided by:

- DPHHS – Mr. Roy Kemp, Administrator Quality Assurance Division
- DPHHS – Ms. Becky Fleming-Siebenaler, Bureau Chief, Licensure Bureau, Quality Assurance Division
- DOLI – Ms. Maggie Connor, Bureau Chief, Health Care Licensing Bureau, Business Standards Division.

Meeting Process

The first work group convened in November 19, 2009. Subsequent meetings were convened on January 8, 2010, February 3, 2010 and March 4, 2010.

The meetings were publically noticed and placed on the State electronic calendar. Minutes from the meetings are found on pages 39-58.

Background Discussion

The issue of using medication aides in nursing homes has surfaced due to the shortage of licensed nursing staff, particularly in Montana’s most rural communities. As a result of this shortage, these facilities are finding it difficult to recruit sufficient nursing staff to meet the needs of their residents and are turning to agencies that supply traveling nurses to staff uncovered shifts. This practice is not only expensive but also affects the delivery of care because these nurses are not familiar with the residents for whom they are caring.

In 2003, the legislature authorized the use of medication aides in assisted living facilities and established their scope of practice (MCA 37-8-422). The Montana Board of Nursing adopted regulations pursuant to the legislation (ARM 24.159.910). The workgroup reviewed the statute and regulations related to

standards of practice, general requirements for medication aide training programs and instructors, general requirements for licensure and standards related to the medication aide's responsibilities as a member of a health care team.

The existing rules and regulations provide for the BON approval of a facility specific training program followed by a testing requirement. The test itself is administered by Head Master, a company that is involved in training and testing of certified nursing assistants (CNAs) in Montana. Because the med aide training differs from facility to facility, the test may assume knowledge of material that has not been taught. This has been problematic and as a result Montana has only 6 people licensed as medication aides.

The work group agreed it would not make recommendations regarding the medication aide program for ALFs but wanted to be sure that this process didn't repeat the difficulties found in ALFs. As such, the group agreed that any training had to be standardized (vs. facility-specific). Testing should follow the standardized training accordingly.

Study Process, Concerns and Findings:

The goal was to discuss all provisions necessary for the safe and effective use of medication aides in nursing homes. This was achieved by determining all workgroup members' expectations and concerns, reviewing all states and identifying those with medication aide programs, selecting six states for a more detailed review, comparing national and association sample models and other available information.

In responding to the charges in HJ17 the workgroup addressed the 2 provisions of the resolution as follows:

(1) identifying other states where the use of medication aides is allowed in nursing homes in order to obtain and review information from those states about:

- (a) the qualifications of medication aides, including the level and type of education and training required;
- (b) the level of supervision by licensed nurses that may be required for medication aides;
- (c) the restrictions on the types of medications or routes of medication administration for medication aides;

- (d) the liability and licensure issues related to supervision by licensed nurses;
 - (e) any study, evaluation, or analysis completed by other states related to the use of medication aides;
 - (f) the problems encountered and successes achieved in the use of medication aides;
 - (g) the structure for the regulation and licensure or certification of medication aides; and
 - (h) other information considered pertinent to the study; and
- (2) obtaining and reviewing information from appropriate state or national organizations related to the use of medication aides, including but not limited to the National Council of State Boards of Nursing and the American Society of Consultant Pharmacists.**

Additionally, as part of its deliberation, the HJ17 workgroup relied on a variety of data and input from the following sources:

- American Nurses Association - Talking Points
- State of Arizona - Medication Technician Pilot Report
- National Council of State Boards of Nursing – Effects of Medication Aides on Job Losses
- National Council of State Boards of Nursing and the ANA - Joint Statement on Delegation
- National Council of State Boards of Nursing – Model curriculum for medication aides
- Medication Aides in Long-Term Care Survey Results
- DPHHS/DLI - Six State Review Study of Medication Aides
- University of North Dakota School of Medicine and Health Sciences – Utilization of Medication Assistants in North Dakota

This information is located in the appendix labeled **Attachments A through L**.

Resolution Points Addressed:

- (1) Identifying other states where the use of medication aides is allowed in nursing homes in order to obtain and review information from those states.

A review of other states (where the use of medication aides is allowed) was conducted. This review revealed that thirty-six (36) states use medication aides in some capacity, and (20) of them use medication aides in nursing homes.

Attachment A shows the specific information required by HJ17 as indicated.

The work group explored the programs in those twenty states for more in-depth study. After considerable discussion, focusing on length of experience with the program and resemblance to Montana issues, the list was narrowed to the following states: Arizona, Iowa, Maryland, Minnesota, North Dakota, and South Dakota. **Attachment B** shows the specific information for these states.

The workgroup saw great value in the Arizona and the NCSBN models; however, there was one key difference: these programs were designed under a “delegation” model. Current BON rules [(ARM24.159.1902(9))] define “delegation” as, “...the act of authorizing and directing a UAP to perform a specific nursing task in a specific situation in accordance with these rules.” A UAP (unlicensed assistive personnel) is not equivalent to a licensed medication aide. The delegation model also exposes the delegating nurse to more liability than the assignment model. The work group wanted to limit the licensed nurse’s liability as much as possible.

The workgroup agreed an “assignment model” is more appropriate for Montana; ARM 24.159.1602(4) defines “assignment” as “...giving to a UAP or licensee a specific task that the UAP or licensee is competent to perform and which is within the UAP’s area of responsibility or a licensee’s areas of accountability or scope of practice.” Although the nurse provides overall supervision to a medication aide, a licensed person has a defined scope of practice under which s/he functions and to which s/he is accountable. Assigning work to a licensed medication aide relieves the nurse of liability, provided the assignment is within the medication aide’s scope of practice.

The workgroup discussed whether error rates would increase as a result of utilizing medication aides. The group specifically reviewed the Arizona pilot project document with this in mind. The Arizona pilot project provided data showing no significant difference in medication error rates among medication aides, LPNs or RNs. In addition to the Arizona results, the committee agreed that a carefully designed program including proper training encompassing the NCSBN recommended curriculum, and instituting certain restrictions for medication aides, would address concerns about the potential for errors.

- (2) Obtaining and reviewing information from appropriate state or national organizations related to the use of medication aides, including but not limited to the National Council of State Boards of Nursing and the American Society of Consultant Pharmacists.

As mentioned above, the workgroup spent a significant time over two meetings researching information about medication aides from the perspective of the National Council of State Boards of Nursing (NCSBN) and found value in the information gathered. The workgroup sought information from the American Society of Consultant Pharmacists as recommended in the resolution; however, according to the research and to discussions with the Montana Board of Pharmacy's Executive Director, the American Society of Consultant Pharmacists has no official position on the use of medication aides in nursing home settings.

Conclusions and Recommendations:

Medication aides are a means to help the nursing shortage in Montana. Their use in other states has shown improved job satisfaction for nurses, better patient care, no increase in medication error rates, and no nursing job losses. The use of medication aides may have the added benefits of reducing the use of outside agency staff that are unfamiliar with the individuals receiving care and of providing a career ladder for nursing assistants.

This report summarizes the outcome of the workgroup's efforts and its recommendations to the legislature. There was agreement on all recommendations with the exception of the extent to which medication aides should be allowed to administer PRN (as needed) medications. Ultimately, the workgroup agreed to recommend PRN administration with appropriate restrictions to be determined by the Board of Nursing through its rulemaking process. The workgroup concluded that the use of medication aides is a viable health care service delivery option if the recommended training, testing, supervision and restrictions on scope of practice are implemented. The group also agreed that an evaluation of any implementation will be vital to the success of this effort.

This report does not include proposed legislation to implement the recommendations; it does however, provide information and processes that are important in developing such a public policy for Montana. Critical issues surrounding the qualifications including education and training, the restrictions to medication aides scope of practice, and the amount of supervision needed were

addressed. These issues and the recommendations concerning these issues should be strongly considered in developing public policy around this issue.

In order for any model to be successful for Montana, the workgroup was steadfast in its determination that proper education and training was the key. The workgroup spent significant time discussing and studying the curriculum models from Arizona, North Dakota, Iowa, Maryland, Minnesota and South Dakota (See **Attachments F and K**) and the curriculum established by the National Council of State Boards of Nursing (NCSBN—**Attachment I**). Ultimately, the group reached general consensus that the NCSBN curriculum—with a few adaptations--fit the needs for a successful medication aide program in Montana.

Therefore, after careful consideration the workgroup agreed the following is necessary to create a successful medication aide program in Montana:

1. Model and Structure: The Board of Nursing should have oversight of medication aides. The model to be created should follow an “assignment model” allowing medication aides to work within their own scope of practice, thus alleviating nurse liability as a result of delegation.
2. Qualifications
 - a. Must be 18 years of age, have a GED or high school diploma
 - b. Must be a certified nurse aide (CNA) with at least two years experience in a nursing home.
 - c. Must be CPR certified
 - d. Must complete Montana Board of Nursing approved training program or be currently licensed as a medication aide in another state.
 - e. Must pass a Montana Board of Nursing medication aide test with 80% proficiency.
 - f. Must complete 4 hours of continuing education annually specific to pharmacology.
3. Restrictions on scope of Practice. Even though medication aides would have their own scope of practice, they would be subject to the following restrictions:
 - (a) Can administer PRN medication with appropriate restrictions to be determined by the Board of Nursing through rulemaking under the Montana Administrative Act (MAPA).

- (b) Cannot administer parenteral or subcutaneous medications except for pre-labeled, pre-drawn insulin;
 - (c) Cannot administer medications through nasogastric routes or by gastrostomy or jejunostomy tubes;
 - (d) Cannot take verbal orders as they relate to changes in medications or issuance of new medications,
 - (e) Cannot convert or calculate dosages.
3. Training and competency examination. The BON will create a curriculum that closely resembles the NCSBN curriculum which involves:
- (a) 100 hours of education—of those 100 hours, 45 must be didactic instruction, 15 hours must involve skills lab, and 40 hours of supervised medication administration to residents;
 - (b) curriculum must consist of basic pharmacology and safe medication administration principles;
 - (c) a state administered competency exam.
4. Supervision. The medication aide must work under the direct supervision of a Montana nurse with an unencumbered license. Direct supervision means that the supervisor is on the premises and is quickly and easily available (ARM 24.159.301(12)). A “nurse” means either an LPN or an RN; and
5. The supervising nurse must be on-site.

Attachment D specifically outlines recommendations as listed above.

The HJ17 workgroup has completed the tasks as outlined in the resolution and after careful consideration provides recommendations that meet the intent of the resolution.

Acknowledgments:

The Department of Public Health and Human Services and the Department of Labor and Industry acknowledges and thanks those contributing to this study including the distinguished members of the workgroup, staff members from both DPHHS and DLI, meeting attendees and the various representatives and contacts from other states and organizations that provided information for this study.